

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
February 21, 2006**

Place: Auditorium  
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Conze, Forman, Kenny, Spain, Bigelow

STAFF ATTENDING: Ginsberg, Keating  
COURT RECORDER: Syat

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At 8:00 P.M., Chairman Damanti read the first two agenda items, which are related:

**Proposed Amendments to the Darien Zoning Regulations, Darien Library Inc., 35 Leroy Avenue.** Proposing to amend the Darien Zoning Regulations to create a new zoning district—a Civic Use Zone--a floating zone; and to add a definition of “Zone, Floating” to Section 210 of the Zoning Regulations.

**Proposed Amendment to Darien Zoning Map, Darien Library Inc., 1421 & 1445 Boston Post Road.** Proposing to rezone the existing parcels from Designed Office & Research 1-acre minimum lot area (DOR-1) and Service Business (SB) to Residential-1/5 acre minimum lot area (R-1/5). The subject properties are on the north side of Boston Post Road, at the northeast corner formed by its intersection with Hecker Avenue, and is shown on Assessor’s Map #39 as Lots #13 and #14 in the SB and DOR-1 Zones.

Mr. Damanti noted that the Commission deliberated on each of these items last week. Commission members first focused on the proposed Zoning Regulation amendment. Mr. Spain said that after the library, it may be a long time before the floating zone is used. He acknowledged that this is really a three step process. The first is to determine whether to include a floating zone in the Darien Zoning Regulations. The second would be to “land” the floating zone for municipal use. The third is to have a site plan review and a Special Permit application. Steps 2 and 3 would require public hearings and probably be done simultaneously. He said that this is the structure of the process the Commission is creating.

Mr. Damanti said that this is being done to accommodate civic/municipal entities including non-Town operated facilities like the library. It is not for other purposes. It is not for commercial uses; nor for residential uses; nor for non-profit civic uses such as the YMCA, the DCA, the Junior League, the Nature Center, the YWCA or any of the private clubs. Future hybrid uses will be subject to interpretation by future Commissions as specifics arise. Mr. Spain agreed with this analysis.

Mr. Kenny noted that the phrase “civic use” has been changed to “municipal use” in the proposed regulations. Ms. Forman agreed with Mr. Damanti that future Planning and Zoning Commissions will have to make their own analysis as to what qualifies as “municipal use” per these proposed regulations. Mr. Bigelow agreed, and said that future Commissions will need to make case-by-case

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determinations. He said that he has some concern about future conversion of these municipal use buildings.

Mr. Conze asked whether if the floating zone is landed but no site plan/special permit is granted should the floating zone expire. Mr. Ginsberg said that having a floating zone expire automatically may not be allowed by State Statutes.

Mr. Spain recommended deleting the phrase "unique use" from both the findings and the regulations. Mr. Kenny then asked about the Darien Boat Club, and whether they would qualify under these proposed regulations. Ms. Forman said that they would need to make their case before the Commission. The list of municipal uses in the findings and regulations is what the Commission means at the moment. Mr. Conze then made a motion to adopt the draft regulations as written. Mr. Bigelow seconded that motion.

Mr. Spain then mentioned that landing the floating zone is no guarantee that the Commission will approve building to the maximum height and setback limits. Mr. Damanti confirmed that the Special Permit gives the Commission control. Mr. Spain said that he is willing to include higher height maximums in the regulations. Mr. Damanti agreed with Mr. Conze that the numbers now in the draft regulations were appropriate. Mr. Spain then made a motion to modify Section 424b in the draft regulations from 40 to 45 (for building height) and 45 to 50 (for peak of highest roof). That motion was not seconded. Mr. Kenny then asked whether adding a new Section 420 was appropriate, or whether this zone should be included elsewhere in the regulations. Mr. Ginsberg said that he and Mr. Keating had determined that establishing this floating zone within the Section 400 Regulations (Residential Zoning) was the most appropriate. A vote was then taken on Mr. Conze's motion. The vote was 6-0 to adopt the draft regulations with two changes: 1) deleting "unique" in Section 421 and 2) changing typographic errors in the findings and Section 423. The findings and draft regulations read as follows:

**FINDINGS – PLANNING & ZONING COMMISSION  
RE: PROPOSED CHANGE OF ZONING REGULATIONS**

1. The Planning & Zoning Commission has received an application to amend the Darien Zoning Regulations to include a new, floating zone for civic uses.
2. The purpose of this amendment would be to accommodate the proposed Library facilities but the Commission members find that the term civic uses is too broad and would prefer to have this new zone apply only to municipal uses. Commission members understand that the Library is operated by a private, non-profit organization that is technically not a Town department; but its regular operations are in part supported by direct payments from the Town. This is similar to the operation of the three volunteer Fire Departments in Town and the volunteer Emergency Medical Services. All of these quasi-municipal uses are appropriate to be located within a special zoning district because they are providing services that would otherwise need to be provided by the Town.
3. The provision of services by the town is recognized within the current Town Plan of Development and the proposed Plan of Conservation and Development. The creation of a special zone that provides greater flexibility to provide the new and/or existing services with

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new and/or expanded municipal facilities in the future, while protecting the community character and the adjacent properties, is in compliance with the current and proposed Plan.

4. Rather than denying the entire proposed text change, the Commission has conducted a public hearing and has modified the proposed amendment of the Regulations to more narrowly permit municipal uses only and to put the proposed amendment into the proper format of the Darien Zoning Regulations.
5. The adoption of the new zone will provide for greater flexibility for municipal uses, which are generally unique facilities within the community and will still provide for protection of the neighboring property owners by a Special Permit review procedure.
6. The effective date of the new regulations shall be at 12:01 A.M. on March 12, 2006.
7. Based on the above, the Planning and Zoning Commission adopts the proposed Regulations as follows:

**ESTABLISHMENT OF MUNICIPAL USE ZONE (MU)**

ADOPTED FEBRUARY 21, 2006  
EFFECTIVE MARCH 12, 2006 12:01 A.M.

**Proposed Text:**

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add New Section and Subsections    420 Municipal Use Zone  
    421 Background and Purposes  
    422 Principal Uses Requiring Special Permit  
    423 Permitted Accessory Uses  
    424 Area and Bulk Requirements  
    425 Special Controls

Page II-15 of definitions

Add to the bottom of the list of residential zones    MU    Municipal Use Zone

Add appropriate notes to Appendix C regarding the amendments and the effective date

**420.    MUNICIPAL USE ZONE**

**421.    Background and Purposes**

The Municipal Use Zone is a floating zone which is intended to provide greater flexibility for municipal uses or for uses that are generally conducted by or provided by the Town of Darien to serve a public purpose. These uses frequently are a one of a kind use in the Town – such as the Town Hall, the Public Works garage, the fire fighting training facility, the middle school, the high school, the Darien Library, the Senior Center, the Darien Police station, the EMS headquarters and garage, while others have more than one facility in the Town, but are dispersed in different areas of the community – such as the three Fire

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Stations, the public elementary schools, public housing, as well as buildings and facilities in the public parks and beaches. In a municipality that is more than ninety-percent developed, it is nearly impossible to find undeveloped parcels for municipal uses or uses serving a public purpose. The application of current regulations frequently limits or precludes the expansion of existing uses to meet future growth requirements. For example, in the residential zones, a 30 foot maximum building height applies to most municipal and public use buildings including the Darien Town Hall, the Darien Police Department, the Noroton and Noroton Heights the volunteer fire departments, the volunteer EMS service and all public schools. Those uses located in the commercial zones are subject to even more restrictive building height limitations of 25 feet or 28 feet. These requirements restrict necessary growth, encourage footprint sprawl, increase building costs and decrease available open space. The intent of this Municipal Use Zone is to permit flexibility in building height, parking and buffer requirements primarily to permit vertical expansion in lieu of expansion of building and structural footprints. Such flexibility shall be granted only where the Commission determines the appropriateness of a particular location for the zone, and only after Special Permit approval of the specific use and facility. Not all municipal existing or proposed uses or properties will be appropriate for the Municipal Use Zone, but the creation and placement of the MU zone provides for greater flexibility for the Town to provide essential services to the community while still protecting the high quality of development and character of the town and protecting the properties in proximity to municipal facilities.

422. Principal Uses Requiring Special Permit

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000, and then a Zoning Permit in accordance with Subsection 1102 and the standards set forth below:

- a. Municipal buildings, structures and uses (including facilities of the Darien Board of Education).
- b. Buildings, structures and uses that serve a public purpose, not including uses carried on primarily for profit, that would normally be constructed by and or operated by the municipality, but which are under the auspices of a quasi-municipal entity such as the Darien Library Inc., or Post 53 EMS service, or one of the three privately operated volunteer fire departments.

423. Permitted Accessory Uses

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000, and then a Zoning Permit in accordance with Subsection 1102 and the standards set forth below:

- a. Signs in accordance with Section 920.

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- b. Any building or use customarily incidental to a permitted use and specifically approved by the Commission.
- c. Reasonable and appropriate off-street parking and loading facilities in accordance with Section 900 as those requirements may be adjusted by the Commission in each instance based upon a review of the specific location, design and circumstances of the existing and/or proposed use.
- d. Accessory food services, consisting of the sale of prepared food for consumption on the premises by visitors and employees.

424. Area and Bulk Requirements

The following requirements shall be deemed to be the minimum or maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

Minimum Lot Area	none
Minimum Lot Frontage	50
Minimum Lot Width (at building location)	60
Minimum Lot Depth (at building location)	100
Minimum Front Yard	25
Minimum Side Yard (See note a)	25
Minimum Rear Yard (See note a.)	25
Maximum Height: (See note b)	
-in Stories	2 and one half stories
- Building Height As defined by Section 210	30 feet
-highest point of roof above average grade	35 feet
Maximum Building Coverage	20% of the lot area

Notes:

- a. Minimum side and/or rear yard(s) may be reduced to not less than 8 (eight) feet where the abutting property is located in the same or less restrictive zone, and the Commission determines that the placement of the building and/or mechanical equipment such as air conditioning units relative to the property line will not be detrimental to the reasonable use and value of the adjacent property.
- b. In addition, the Commission may authorize a basement or two floors below ground level to be completely finished, habitable space without those areas being counted as a 'story.' Maximum building height as defined by Section 210 may be increased to 40 feet and/or 3 stories above ground and/or 45 feet (from the average grade to the highest point of the roof) provided, either: 1) all of the setbacks for the entire building are increased to at least two times the minimum requirement; or 2) the Commission finds that the unique use and design of the building combined with the location of the site and the development plan will result in a project that will be appropriate for the community and

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the site specific circumstances and will not be detrimental to the reasonable use and values of the adjacent properties.

425. Special Controls

- a. Necessary lighting of parking areas shall be permitted, but there shall be no unshaded/unshielded light sources and lights shall be so located that their beams are not directed into neighboring residential lots or onto an adjacent street. Due to the unique nature of the uses and the fact that many of the facilities will serve more than one function or use, and because it is not unusual for such facilities to be the location of special events, the number of on site parking spaces shall be subject to a determination by the Commission regarding the adequacy of such parking for most activities and events to take place on the site.
- b. Reasonable and appropriate parking setback requirements as specified in Section 906.6 shall be provided except as those requirements may be adjusted or eliminated by the Commission in each instance based upon a review of the specific location, design and circumstances of the proposed use.
- c. Reasonable and appropriate landscaping, screening and buffering shall be provided in accordance with Section 940, as those requirements may be adjusted or eliminated by the Commission in each instance based upon a review of the specific location, design and circumstances of the proposed use.
- d. All uses shall be subject to Special Permit approval in accordance with Subsection 1000. In general the 25 foot minimum buffer from all property lines to all Special Permit buildings, parking areas and other active use areas shall be maintained, but the Commission may authorize the reduction or elimination of the buffer size in certain specific circumstances where they determine that it would be impossible and/or inappropriate to establish and/or maintain such buffers and the Commission determines that the reduction of the buffer size will not have an unreasonable detrimental impact upon the adjacent property or properties.
- e. The Municipal Use (MU) Zone shall be applied as an overlay zone that keeps the existing, underlying zone in place, and thus provides the property owner with an option to use and develop the site in accordance with the regulations of the existing zone or to utilize the flexibility of the MU zone. Any structures and/or facilities developed in accordance with the Municipal Use Zone are for the specific use as authorized and might not be easily adaptable for conversion to other uses once the municipal use has been discontinued.

Relative to the **Proposed Amendment to Darien Zoning Map, Darien Library Inc., 1421 & 1445 Boston Post Road**, Mr. Hill was present on behalf of the Darien Library, and noted that since the floating zone had been adopted by the Commission, he was formally withdrawing the Zoning Map amendment application.

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Mr. Damanti then read the next agenda item:

**Work within Coastal Area Management Zone,** Minicucci property, 159 Long Neck Point Road, R-1 Zone.

Mr. Keating summarized the February 15 letter from Thomas Ryder of Land-Tech Consultants, Inc. regarding the proposed work to be done at the Minicucci property. He noted that the property has both tidal and inland wetlands, and this project was recently approved by the Environmental Protection Commission. Mr. Ryder was present, and briefly explained the project and the location of the subject property. Mr. Bigelow made a motion to approve the project as proposed. That motion was seconded by Mr. Spain and approved by a vote of 6-0.

Mr. Damanti then read the next agenda item:

**Amendment of Business Site Plan #124-B, Ching's Table for property owned by Dolcetti, 971 Boston Post Road, CBD Zone.**

Request to add walk-in cooler to rear of the existing building and a new venting system for the proposed Ching's Table restaurant to occupy the space formerly occupied by Dolcetti's Ristorante.

Commission members then reviewed the February 21, 2006 memorandum from Vince Proto of the Darien Health Department. Mr. Ginsberg explained that there are three issues before the Commission this evening: 1) the use of the third floor for dry storage for the restaurant; 2) the installation of a walk-in cooler to be placed outside the rear of the existing building generally under the overhang; and 3) the venting of the restaurant. He said that the first two items will need to go to the Zoning Board of Appeals (ZBA) for their review and action, but this item is before the Commission this evening to allow for an information review. Any formal review will occur after the ZBA acts upon the plans. Relative to the venting, Mr. Ginsberg and Mr. Keating referred to Mr. Proto's memo which notes the proposed use of an ejection type kitchen exhaust system rather than a water wash type exhaust hood system, which was just approved by the Commission for Little Thai Kitchen at 4 West Avenue. Mr. Dolcetti was present and explained that Mr. Proto's memo notes that the Health Department is requiring that the ejection type system will need to be replaced with a water wash system if any complaints are received. Mr. Conze asked what kind of system is now used by this restaurant in New Canaan. Mr. Bigelow confirmed that every effort should be made to keep any smell and odors to a minimum. Mr. Spain believed that the application should install the most effective system for removing odors.

There being no other business, at 9:10 P.M., Mr. Bigelow then made a motion to adjourn the meeting. That motion was seconded by Ms. Forman and unanimously approved.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Director